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SUBJECT: CROATIA FEARS POLITICKING OVER CROATIA-SLOVENIA

BORDER COULD COMPLICATE EU ACCESSION

REF: (A) ZAGREB 1077 (B) LJUBLJANA 758 (C) BRUSSELS

2495

SUMMARY AND COMMENT

¶11. (SBU) As rhetoric on border questions between Slovenia and Croatia escalates before the October 3 Slovenian parliamentary election, Croatia calls for arbitration and rejects as blackmail recent Slovenian threats to use the EU card. The potential for violence is small, but each side will continue to claim jurisdiction over the same small wedges of sea and land.

¶12. (U) There are three intertwined issues: the maritime boundary, the land border (probably more important as a bargaining chip in the maritime border dispute), and Croatia's declaration of a fishing and environmental zone due to go into effect October 3 (see septel). Croatian and Slovenian leaders have for weeks exchanged insults and accusations blurring the distinction among these issues.

¶13. (SBU) Though pre-election politicking can explain harsh statements and provocative stunts by both sides, the serious issues of Slovenia's self-image as a maritime nation and Croatia's inferiority complex vis-a-vis Slovenia have kept the boundary issue alive since independence and will continue to do so even after Slovenia's October 3 election. Before it received official EU candidate status, the GoC had to backtrack on the fishing and environmental protection zone. However, the GoC is not strong enough to weather any further bilateral compromise on the border issue. The GoC hopes to resolve the boundary issue through arbitration before its EU entry, but the fact remains that a "no" vote by any EU member can delay or derail Croatia's EU aspirations. END SUMMARY AND COMMENT.

MARITIME BOUNDARY

¶14. (SBU) Croatia bases its maritime boundary case on its reading of the UN Convention on the Law of Sea, which the MFA legal department claims establishes guidelines for delimiting territorial seas in bays based on "equidistance." (Comment: UNCLOS also allows for exceptions based on historical title or special circumstance.) Despairing of a negotiated solution that would meet its political needs, the GoC notes in all public statements its strong preference for binding arbitration.

¶15. (SBU) Controversy surrounds a 2001 agreement between Croatia and Slovenia (always referred to by Croatian authorities as a "draft" document), which was initiated by then-PM Racan's representative but repudiated by Parliament and never signed. The GoC maintains the agreement has no legal force. The document, which was never published but apparently grants Slovenia a corridor through the Adriatic in order to give it "contact" with the open sea, caused a national uproar and nearly brought down Racan's government. The Croatian MFA has expressed frustration at GoS insistence in keeping the 2001 document alive.

LAND BORDER

¶16. (U) Increased tension over the maritime boundary has deepened divisions over the land border. Stunts and provocations by both sides -- police interdictions of fishing vessels, protests at border crossings, and most recently the September 22 arrest of several Slovenian parliamentarians by Croatian police for refusing to provide identity papers while crossing an international border -- kept the controversy in the headlines throughout August and September (ref c).

¶17. (SBU) On the land border issue, the GoC cites the opinion of the Badinter Commission, a group of legal experts established by the EU in the early 1990s to determine borders within the former Yugoslavia. According to the Badinter Commission, in the absence of agreement otherwise, the international borders of the new states should be the same as the internal borders of the Yugoslav Republics. This

"Badinter principle" is noted in both the Croatian and Slovenian declarations of independence. Thus, the GoC considers the land border question closed. (NOTE: The Badinter group did not address the maritime boundary, as there were no internal maritime borders in the former Yugoslavia.)

18. (SBU) The MFA asserts that the repudiated 2001 initialed agreement made only small administrative changes to the land border, on an equal land swap basis with Slovenia. Slovenian press reports characterize these as major land concessions,

but if that was the case, it was not sufficient to appease the Croatian parliament.

FISHING AND ENVIRONMENTAL PROTECTION ZONE

19. (SBU) These maritime boundary and land border problems have intensified at an inopportune time, just before Croatia's Fishing and Environmental Protection Zone (FEPZ) in the northern Adriatic enters into force October 3. As a political concession to Italy and Slovenia in the run-up to a decision on Croatian EU candidate status, the Zone will not apply to EU member states (reftels A and C). The latest chapter in a muddled history on Adriatic fishing rights, including a 1996 bilateral non-interdiction agreement for Slovenian and Croatian fishermen, the FEPZ will give Croatia authority to interdict only non-EU flag vessels fishing in the zone. Since the bilateral non-interdiction agreement expired with Slovenia's EU accession in May 2004, Slovenian police have begun stopping Croatian flagged fishing vessels (reftel B) and Croatian police have responded by escorting Croatian fishermen operating near the equidistance boundary.

WON'T GO AWAY AFTER OCTOBER 3

110. (SBU) While much of recent Slovenian rhetoric seems to be political electioneering, this is a long-festerling dispute that matters deeply to both countries. According to the MFA and EC delegation contacts, EU accession will not solve the maritime boundary question because the EU has no competency over territorial seas. Croatian officials fear Slovenia will block Croatia's EU entry, but anything other than international arbitration will be impossible for the GoC to sell to its public.

111. (U) Embassy Ljubljana has seen this cable.

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